

**TOWN OF EATONVILLE  
PLANNING COMMISSION AGENDA  
*Tuesday, September 21<sup>st</sup>, 2015 – 7:00 P.M.*  
COMMUNITY CENTER  
305 CENTER STREET WEST**

Call to Order

Roll Call: Beach \_\_\_ Bertola \_\_\_ Craig \_\_\_ Justice \_\_\_ Lambert \_\_\_ Miller \_\_\_

Town Staff Present: Mayor Schaub, Doug Beagle and Kerri Murphy

Pledge of Allegiance

Approval of the Agenda:

Approval of Minutes: September 8<sup>th</sup>, 2015

Communications and Announcements:

From Public:

From Commissioners:

Public Hearing: Design Guidelines Variance – 580; 590 & 600 Eatonville Hwy W.

Comprehensive Plan Review

Old Business: Nuisance Code updates

Public Comments:

Staff Comments:

Commissioner Comments:

Next Meeting: **October 5, 2015**

**Town of Eatonville  
PLANNING COMMISSION MEETING  
Tuesday, September 8, 2015  
COMMUNITY CENTER  
305 CENTER STREET WEST**

**CALL TO ORDER**

**Chairman Lambert** called the meeting to order at 7:00 PM.

**ROLL CALL**

Present: **Commissioners Beach, Craig, Justice, Lambert and Miller.**  
**Commissioner Bertoia** was excused.

**STAFF PRESENT:** Mayor Schaub and Kerri Murphy

**OPENING CEREMONIES**

**Commissioner Miller** led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

**Commissioner Beach** move to approve the agenda. Seconded by **Commissioner Miller.** AIF

**APPROVAL OF MINUTES**

Approval of the **August 17, 2015** minutes. **Commissioner Beach** motion to approve with corrections. Seconded by **Commissioner Miller.** AIF

**COMMUNICATIONS OR ANNOUNCEMENTS**

There were no communications and announcements.

**PUBLIC HEARING**

**Rezone - 110 Oak St E**

**Curtis Hood, 5400 - 429<sup>th</sup> St. E., Eatonville** - explained that he was there if anyone had any questions.

**Commissioner Beach** said he understands that Mr. Hood intends to build two houses on this property.

**Mr. Hood** said yes, that is the plan. He explained that if the property rezone is approved, they will apply for a short plat to SF-3.

**Commissioner Beach** confirmed that the existing zoning would not allow him to do this.

**Mr. Hood** said yes this was his understanding due to the minimum lot size.

**Chairman Lambert** asked if the minimum lot size was in the packet. (Page 6 addresses SF-3, 6,000 Sq. Ft; MF-2; 9,600 Sq. Ft)

**Mr. Hood** said he thought that the minimum for MF-2 was 9,000 Sq. Ft. and R-1 (SF-3) was 6,000 sq. ft. Currently the existing lot is 12,300 Sq. Ft.

**Chairman Lambert** asked for any further discussion. There was none. Public hearing was closed.

Pursuant to Eatonville Municipal Code (EMC) 18.09.050, Standards and Criteria for Granting a Request for Rezone, the Eatonville Planning Commission makes the following additional findings:

**Commissioner Beach** made the following motions:

9. The proposed rezone is consistent with the comprehensive plan; **Beach/ Miller AIF**

10. The proposed rezone and subsequent development of the site would be compatible with development in the vicinity; **Beach / Justice AIF**

11. The proposed rezone **will not** unduly burden the transportation system in the vicinity of the property with significant adverse impacts which cannot be mitigated; **Beach / Craig AIF**

12. Circumstances **have** changed substantially since the establishment of the current zoning district to warrant the proposed rezone; **Beach / Miller AIF**

13. The proposed rezone **will not** adversely affect the health, safety and general welfare of the town.  
**Beach / Miller AIF**

#### **IX. DRAFT PLANNING COMMISSION RECOMMENDATION:**

Having conducted the required public hearing and carefully considering the entire record, including but not limited to the Planning Department file, the recommendations and comments of Planning Staff, the presentation and comments of the Applicant and the public, by a vote of 4 in favor and 0 apposed, the Planning Commission hereby adopts the Planning Staff Analysis, Recommendations and Draft Findings of Fact contained herein and as noted above, and recommends **APPROVAL** of the Hood Rezone request.

#### **Allowing for Motorized Recreational Vehicles on public streets**

**Mayor Schaub** gave a brief summary for bring this issue forward explaining that this had been through several different public safety committee meetings to be discussed. It has also been through Risk Management for our insurance for the town and through the attorney to make sure that it would not have an adverse impact on the insurance kept through the town. In the packet are several different examples of what other jurisdictions have put out there and also the RCW when that was approved to allow the ATV vehicles on the road. These vehicles must meet certain criteria and certain standards. Through that process it was agreed to at the council to go ahead and let it go through the process of a public hearing to get public input. This will give both sides an opportunity to speak on the topic.

**Commissioner Beach** asked what brought this subject up in the first place.

**Mayor Schaub** said that with the state law change a couple of citizens who wanted to have access it within the town limits approached the council for their consideration. In going through the process we felt it was one of the items to be discussed. They would have access all through town. The town will need to get something in writing from the state regarding allowing the ATV's on the state highway, and the town may have that already. We are 25 mph. going through town, the school zones, being able to cross at Carter and Center, this way they would be able to access both sides of town. There was no direction from the council as far as restrictions go one way or the other.

**Chairman Lambert** asked if they are looking at all off road vehicles, golf carts, and the whole gamut.

**Mayor Schaub** said that they did not give a limitation to do the golf cart or the ATV, it does have to meet what the state would require for brakes, safety equipment etc. that make the vehicle licensed and street safe.

**Commissioner Miller** said that the vehicles are required to be licensed but not required to carry insurance. They are exempt from insurance he believes. Motorcycles are not required to have insurance either.

**Mayor Schaub** said that the town wanted to make sure that the town itself would not be at risk if they were allowed on town streets or any extra signage that we would be required to have. Risk Management did send an email stating that because of the geographic of the streets and schools in town it is not one that they would recommend and would not require any additional insurance on our part. The town wanted these questions answered.

**Colin Stephens, 401 Skylar Way, Eatonville**- Wanted the planning commission to know that he is an owner of an ATV and he is the one that brought it to council originally and is willing to answer their questions. He said that Commissioner Miller is correct, that it falls under the motorcycle laws for insurance.

**Chairman Lambert** asked what he is in support of. Golf carts, ATV's or farm carts?

**Mr. Stephens** explained he is in support of the ATV's and farm carts.

**Commissioner Miller** said that it is 46.09.400 that talks about insurance and exemption from it. In his opinion, the UTV's and the ATV's have come so far in the last 10 or 20 years they are totally feasible to ride on the highways, convenient and take up less parking. He like's the City of Okanogan's ordinance the best, there are very few exemptions. He is very supportive of the UTV's and the ATV's.

**Don Stewart, 201 Orchard Ave N., Eatonville** - he wanted to speak in support of the ATV's himself. He spends 6 months a year in Yuma, Arizona. Everybody there rides the ATV's and you can even go on the freeway with them. He personally rides a "Razor". It is 60" wide and capable of doing 80 mph. It drives no different than a car. If you go to the

grocery store in Yuma, half the parking lot is ATV's. The ATV's are not a nuisance they are more of a convenience. A lot easier to park and better on gas.

**Chairman Lambert** closed the public hearing on motorized recreational vehicles.

**Commissioner Beach** move to have town staff draw up an ordinance that deals with the motorized recreational vehicles along the lines of the City of Okanogan's ordinance.

**Commissioner Miller** seconded the motion. AIF

## OLD BUSINESS

### Nuisance Code updates

**Mayor Schaub** explained to the commissioners that the nuisance code updates were to be reviewed and that no decision needed to be made this evening.

**Commissioner Beach** asked for a clean copy written in ordinance form. This would be clearer to the commissioners.

**Mayor Schaub** said that this form was for any other comments, but that a clean copy would be able to be provided.

**Commissioner Miller** asked about noxious weeds. One person's knap weed could affect quite a few neighbors. There is no provision to address that.

**Mayor Schaub** will ask Mr. Beagle to ask the planner and see if it is covered by another code.

**There were no comments from the public.**

**Commissioner Beach** asked to be excused from the planning commission meetings in October, he will be gone.

**Commissioner Miller** asked about the letter from Leona Shay. It was explained that it was for information only. She asked that council and the planning commission get copies. The letter addresses signage within the town of Eatonville.

**Commissioner Justice** said that she is still hearing from citizens about the semi-truck parked at the corner of Carter and Washington Ave. N. You cannot see traffic to the north as you are coming out of the Carter Street turning left. With school now in session it creates an even more dangerous situation.

**Mayor Schaub** said it is the same situation coming out of Lynch Creek Dr. heading south, you cannot see around for oncoming traffic. If the tractor is disconnected from the trailer it can be there for a certain amount of time and it is a different amount of time if the tractor trailer is there. If they are moved back more they would affect the driveway coming out of the elementary school. He will have it looked at again. He knows that it is tough to see around to oncoming traffic.

**Commissioner Beach** asked if maybe they could check into the Le May parking lot if they would allow them to park there. The truck by Lynch Creek has been there longer than 48 hours, approaching three days. He asked if anyone has really talked to them parked along Washington.

**Mayor Schaub** thought that within the town limits it is up to the town.

**Commissioner Miller** agreed that this is a legitimate safety concern.

**Next meeting: September 21<sup>st</sup>, 2015.**

## ADJOURNMENT

**Chairman Lambert** adjourned the meeting at 7:45 p.m.

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Chairman Lambert

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David Craig - Secretary

ATTEST:

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Kerri Murphy – Recording Secretary



## **Staff Report**

Scott Clark, Town Planner  
Larson and Associates

# **Park Place Homes Variance**

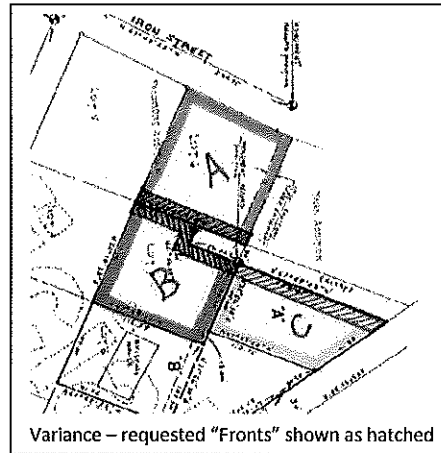
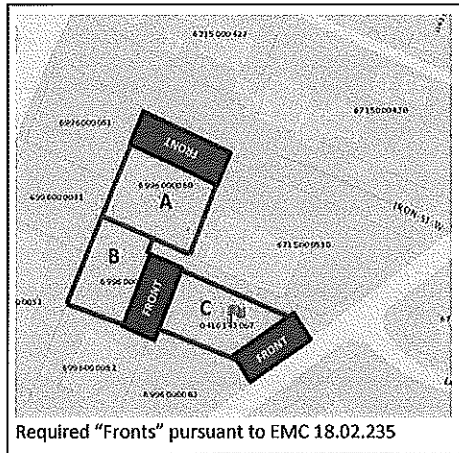
**Board of Adjustment Hearing  
September 21, 2015**

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## **I. APPLICATION SCOPE:**

The Applicant is requesting three (3) Variances to the Code requirements regarding "Lot Frontage", EMC 18.02.235. Specifically, the applicant is requesting relief from "Lot Frontage" as it relates to the orientation/location of home fronts. The Applicant request is to reorient the development of three (3) single-family residents so that each home is facing the alleyway instead of the nearest the street.



## **II. GENERAL SITE LOCATION:**

The Park Place Homes properties are located on the east side of Town, on the north side of the Eatonville Highway.



*Aerial photo of project Lots A, B, C and the surrounding area*

### III. BACKGROUND:

Owner/Applicant: Park Place Homes LLC (PARK PLACE III LLC)  
PO Box 731335, Puyallup WA 98373

Application Type: Variance

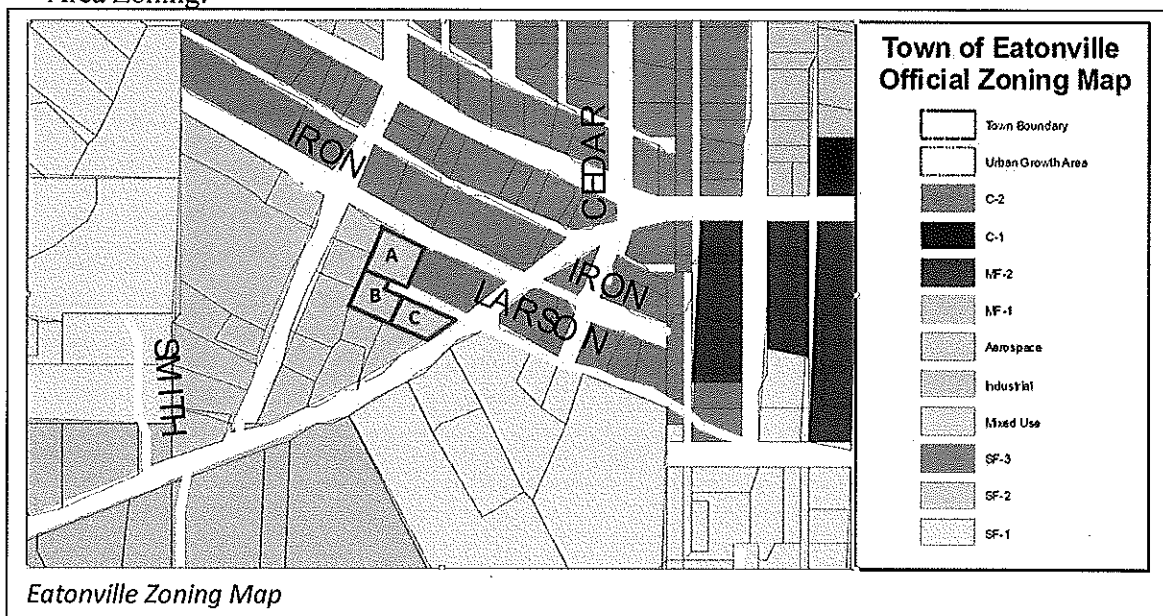
Application Vested: September 2, 2015

Tax Parcel Numbers: Lot A: 6996000060  
Lot B: 6996000070  
Lot C: 0416143067

Tax Descriptions: Lot A: Section 14 Township 16 Range 04 Quarter 33  
PREDMORE ADD: PREDMORE ADD L 6 EASE OF  
RECORD  
Lot B: Section 14 Township 16 Range 04 Quarter 33  
PREDMORE ADD: PREDMORE ADD L 7 EASE OF  
RECORD  
Lot C: Section 14 Township 16 Range 04 Quarter 33: PARCEL  
"A" OF DBLR 97-01-13-0168 DESC AS FOLL BEG AT MOST  
ELY NE COR OF L 7 PREDMORE ADD TH S 21 DEG 56 MIN  
38 SEC W ALG E LI SD LOT 7 75 FT TH S 67 DEG 49 MIN 22  
SEC E TO NLY R/W OF EATONVILLE HWY TH N 53 DEG  
53 MIN 38 SEC E ALG SD R/W 88.16 FT TH N 67 DEG 49  
MIN 22 SEC W 157.41 FT TO POB SUBJ TO EASE OUT OF  
3-027 SEG I-0620 JU 3/6/97JU

Current Zoning: Single-Family Residential District, Medium Density (SF-2)

Area Zoning:

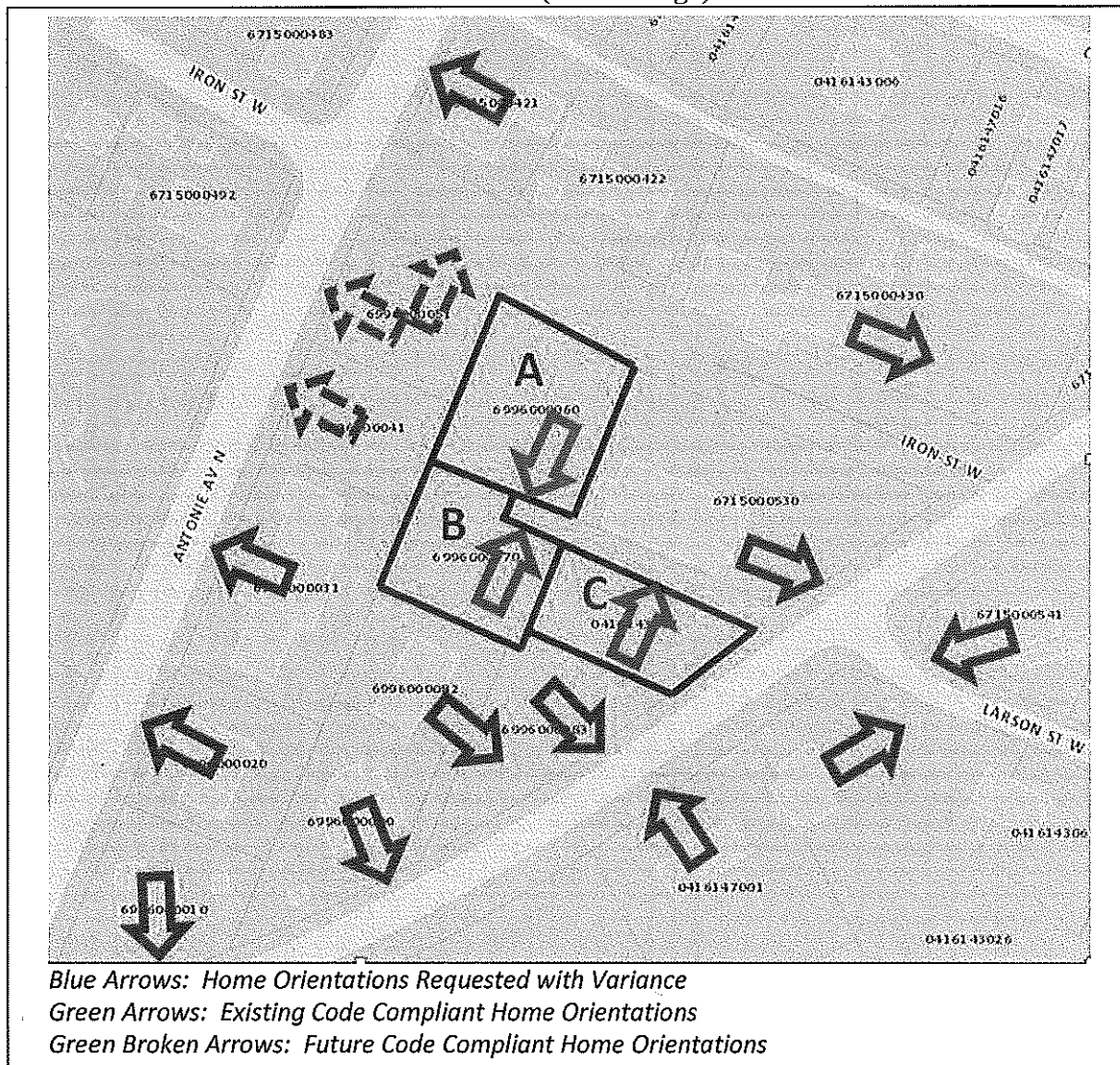


Abutting Area Zoning: North: SF-2 & SF-3  
 South: SF-2 & SF-1  
 East: SF-3  
 West: SF-2

Physical Street Frontages: Parcel A physically fronts Iron Street West (*an undeveloped street segment*).  
 Parcel B does not physically front on a Town street; only an undeveloped alleyway.  
 Parcel C physically fronts on Eatonville Highway.

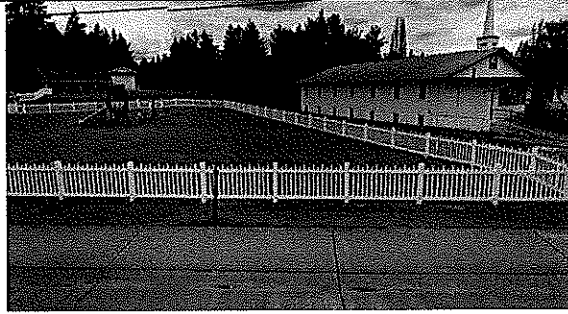
Existing Conditions: Lot A: Undeveloped  
 Lot B: Undeveloped  
 Lot C: Undeveloped

Area Home Orientations to the Nearest Street (Lot Frontage):



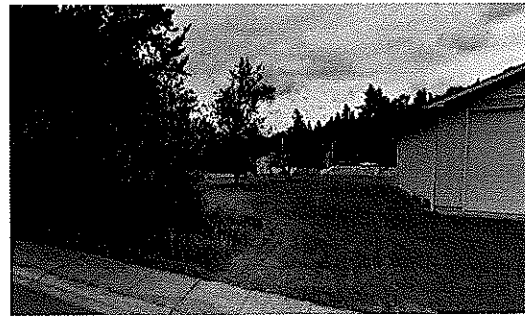


#### Area Neighborhood Views:



*Lot C (foreground) and Lots B & C (background) – northwesterly view from Eatonville Highway*

*Looking Southeast towards the site from Antonie Avenue*



*The Church building southeast of the site facing Eatonville Highway*



*The two (2) homes northeast of the site facing Eatonville Highway*

#### IV. REGULATIONS AND PROCEDURES:

For Board of Adjustment review and consideration, please find below some of the relevant Eatonville Municipal Codes (EMC) related to this proposal:

##### Chapter 18.09. Administration, including but not limited to:

##### *18.09.040 Variances.*

*The planning commission acting as the board of adjustment shall have the authority to grant a variance where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this title might result from the strict application of certain provisions. A variance may not be granted to allow a use that is not in conformity with the uses specified by this title for the district in which the land is located.*

*A. Eligibility. No variance application may be filed until one calendar year after the completion, and approval by the town, of all work associated with any other development or improvement, or from the issue of any other town permit for the subject property. For example, no variance application may be filed until one year after issue of a final certificate of occupancy upon completion of building construction. Similarly, no variance application may be filed until one year after issue of a business license for use of an existing building. The only exception to this restriction to eligibility shall be for variances sought for building setbacks (yard depths) due to bona fide construction stake-out errors.*

*B. Application. The owner or his agent may make application for a variance, which shall be on a form prescribed by the planning director and filed by the planning director. The*

application shall be submitted at least 30 days prior to the next regularly scheduled public hearing date, and shall be heard by the board of adjustment within 45 days of the date of the application; provided, however, that this period may be extended in any case for which an environmental impact statement is required.

C. *Public Hearing.* The board of adjustment shall hold a public hearing on any proposed variance, and shall give notice thereof in at least one publication in the local newspaper at least 10 days prior to the public hearing.

1. Notice shall be given to all property owners within a radius of at least 300 feet. Such notice is to be sent 10 days prior to the public hearing. The failure of any property owner to receive the notice of hearing will not invalidate the proceedings.

2. Public notices shall be posted in one conspicuous place on or adjacent to the property which is the subject of the applications at least 10 days prior to the date of the public hearing. Public notice shall be accomplished through use of a two-foot by two-foot plywood face generic notice board, to be issued by the town planning director, and as follows: the applicant shall apply to the town for issuance of the notice board, and shall deposit with the town planning director the amount of money as specified in the current rate and/or fee resolution. The applicant shall be responsible for placement of the notice board in one conspicuous place on or adjacent to the property which is the subject of the application at least 14 days prior to the date of the public hearing. Planning department staff shall post laminated notice sheets and vinyl information packets on the board no later than 10 days prior to the hearing. Upon return of the notice board in good condition to the planning director by the applicant, an amount of dollars of the initial notice board deposit shall be refunded to the applicant as specified in the current rate and/or fee resolution.

D. *Conditions for Granting.* Before any variance may be granted, it shall be shown and the board of adjustment shall find that:

1. The variance shall not constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located;

2. Such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

E. *Board of Adjustment Action.* The decision of the board of adjustment shall be final and conclusive, unless within 10 days from the date of action the original applicant or an adverse party makes an appeal to the town council. This appeal should be in writing to the town council and filed with the town clerk.

1. The decision of the town council shall be final and conclusive unless within 10 days from the date of action the original applicant or an adverse party files application to the county superior court for a writ of certiorari, writ of prohibition or writ of mandamus.

F. *Period of Validity.* Any variance authorized by the board of adjustment shall remain effective only for one year, unless the use is begun within that time or construction has commenced. If not in use or construction has not commenced within one year, the variance shall become invalid.

G. *The fee for the variance and an appeal shall be set by resolution.*

## Chapter 18.03, Districts Established -- Zoning Map

### Chapter 18.02 Definitions

#### 18.02.015 Alley.

*"Alley" means a public or private way not more than 30 feet wide affording only secondary means of access to abutting property or providing access to no more than three lots or potential lots. Alleys are typically unnamed.*

#### 18.02.235 Lot frontage.

*The front of a lot shall be that portion nearest the street. The user of a corner lot has the option of determining which part of the lot fronting on a street shall become the lot frontage, but the entrance shall be in the front.*

#### 18.02.230 Lot, corner.

*"Corner lot" means a lot abutting upon two or more streets at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot lines.*

#### 18.02.520 Street.

*"Street" means a public or private right-of-way or easement that can accommodate vehicle access to more than three lots, potential lots, or lot equivalents. "Street", "avenue", "court", "drive", "high-way", "lane", and "road" are terms used interchangeably and mean the same. Streets are typically named.*

### Chapter 18.04 District Regulations

#### 18.04.020 SF-2 – Single-family residential district, medium density.

*It is the purpose of the SF-2 single-family residential district to stabilize and preserve medium density residential neighborhoods.*

A. *Lot Area. Minimum lot area is 8,400 square feet.*

B. *Minimum Zoning. Minimum zoning area is 15,000 square feet (three lots).*

C. *Principally Permitted Uses. Principally permitted uses are as follows:*

1. *One single-family dwelling per lot;*
2. *Crop and tree farming;*
3. *Group homes class I-A and I-B.*

G. *Development Standards.*

1. *Minimum lot area is 8,400 square feet.*
2. *Minimum lot width is 60 feet.*
3. *Maximum site coverage is 40 percent.*
4. *Minimum yard requirements:*
  - a. *Front Yard. Minimum front yard is 25 feet.*
  - b. *Side Yard. Minimum side yard is eight feet.*

- c. *Rear Yard. Minimum rear yard is eight feet, provided that the minimum rear yard setback for property with a rear yard abutting on an alley shall be the greater of two feet, or 12 feet from the alley center line.*
- d. *Side Yard on Flanking Street of Corner Lot. Minimum side yard on the flanking street of a corner lot is 15 feet.*
- 5. *Height Limitation. The height of structures shall not exceed 28 feet.*
- 6. *Interior Yards. Interior yards shall not be computed as part of the site coverage.*
- 7. *Additional Standards. See Chapter 18.08 EMC, pertaining to general and supplementary provisions, for requirements concerning accessory buildings and additional standards.*

## V. COMPREHENSIVE PLAN

For Board of Adjustment reference, please find below some of the Eatonville Comprehensive Plan excerpts that relate to this proposal:

### 10.7.1 General Land Use.

#### Goal LU-1

*To support and improve a rural small town, residential community comprised largely of single-family neighborhoods together with a central commercial area and a broad range of other support services and businesses which occur in identified commercial areas.*

#### Policies

1. *Consider the following before decisions in land use are made:*
  - b. *Adequacy of and proximity to community facilities and utilities, roads, parks, recreation facilities and schools;*
  - c. *Benefit to the neighborhood, Town or region;*
  - f. *The effect of the proposed use on the small town image of Eatonville.*
2. *Ensure compatibility with adjacent land uses. The following should be considered prior to land use decisions:*
  - a. *The type of land use and the design of new development should be compatible with existing developments and land uses and should preserve Eatonville's small town image;*
  - c. *Land uses along highways and major streets should consider noise, air quality, visual and other unique environmental conditions which occur in these areas; and*
  - d. *Development should be sensitive to the natural, historic, and archaeological features of the site.*
3. *Provide for an appearance of openness by clustering building groups with well-designed open space separations.*
4. *Orient buildings to enhance views and blend in with the natural topography.*
5. *Create livability through provision of recreational facilities, protection of historic properties, attractive common areas, clear building accessibility, adequate parking, and public walkways.*

### 10.7.2 Residential Areas Land Use

#### Goal LU-2



*To encourage residential neighborhoods within the Town to have convenient access (including pedestrian) to commercial facilities, parks, and other community services.*

*Policies*

*1. Encourage the efficient use of developable residential land through the application of zoning policies.*

**VI. STATE ENVIRONMENTAL POLICY ACT (SEPA):**

A “SEPA Exemption” determination for this proposal was made on September 8, 2015. Pursuant to WAC 197-11-800(6)(e), Categorical Exemptions, an application for variance is exempt from SEPA review: *(6) Land use decisions. The following land use decisions shall be exempt: (e) Granting of variance based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.*

**VII. STAFF ANALYSIS & RECOMMENDATIONS:**

Pursuant to EMC 18.09.040, the Board of Adjustment is authorized to review and grant variances to the Eatonville code development standards where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this title might result from the strict application of certain provisions of the code. In this case, Staff understands the land owner is seeking variances to “Lot Frontage” in order to reorient three (3) homes with the intent of creating a “neighborhood feel” oriented around an existing alley that serves as access to all three lots.

**Lot A:**

Lot A is located north of Lots B and C, west of an existing church, east of a vacant lot, and is abutting the undeveloped Iron Street to the north. The Iron Street right-of-way does not currently provide access; access is proposed from the undeveloped alley on the south side of the lot.

It is Staff’s belief a variance to Lot Frontage for Lot A may be considered necessary by the Board because of special circumstances relating to the lot’s location and surroundings, including but not limited to the existing neighborhood development patterns, and the fact that the Iron Street right-of-way is undeveloped and is unlikely to be developed for access in the future. Requiring this lot to orient the home towards an undeveloped street (*that is not anticipated to be developed*) does not appear to have any practical purpose as it relates to the orientation requirements goal of creating a uniform neighborhood environment along Town streets. Given the existing physical conditions and constraints, and in consideration of the allowance provided for corner lots to choose Lot Frontage in this zone, the Board could find the granting of a variance will effectively provide the landowner with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. It also appears a variance could be found not to constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity. Finally, based on the above it’s Staff’s belief the Board could find granting a variance would not be considered materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone.

### **Lot B:**

Lot B is located northwest of Lot C, south of Lot A, and north and east of existing single family residences. Lot B is an isolated lot that has no direct frontage along a Town street. Access to this lot is limited to the undeveloped alley on the north side.

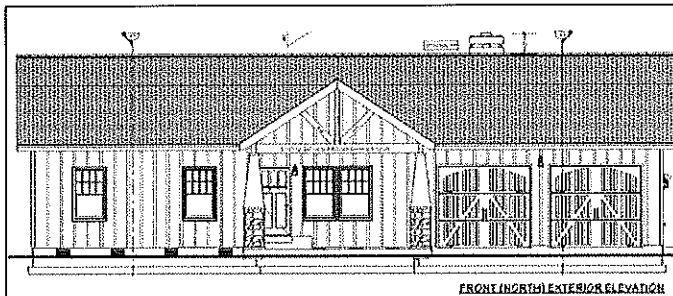
It is Staff's belief a variance to Lot Frontage for Lot B may be considered necessary by the Board because of special circumstances relating to the lot's location and surroundings, including but not limited to the existing neighborhood development patterns, and the fact that the lot is effectively an island property (*surrounded by other lots and having no direct frontage on a Town street*). In this particular case, requiring this lot to orient the home towards the closest street does not appear to have any practical purpose as it relates to the orientation requirements goal of creating a uniform neighborhood environment along Town streets. Given the existing physical conditions, constraints, and in consideration of the allowance provided for corner lots to choose Lot Frontage in this zone, the Board could find the granting of a variance will effectively provide the landowner with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. It also appears a variance could be found not to constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity. Finally, based on the above its Staff's belief the Board could find granting a variance would not be considered materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone.

### **Lot C:**

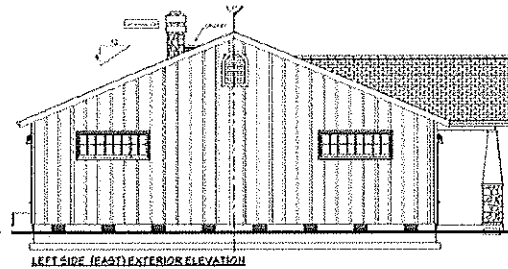
Lot C is located southeast of Lots A and B, southwest of an existing church and east of an existing single family residence. Lot C physically fronts directly on the north side of the Eatonville Highway; it also abuts an ally on the northeast side, adjacent to the church.

Having reviewed the application materials provided by the Applicant, and although Staff understands the intent of the proposal, it appears the Applicant has not adequately demonstrated compliance with the Conditions for Granting a variance pursuant to EMC 18.09.040. Based on the information provided it appears a variance to Lot Frontage for Lot C would not be considered necessary because of any special circumstances relating to the lot's location and surroundings; Lot C is fronting directly onto Eatonville Highway. The existing neighborhood orientation development pattern appears to be compliant (*see the "Area Home Orientations to the Nearest Street (Lot Frontage)" illustration on page 4*). In Staff's opinion, requiring Lot C to orient the home towards the closest street appears to have practical purpose as it relates creating a uniform neighborhood environment along Eatonville Highway. Given the existing physical conditions and orientation pattern, it appears the Board could find the granting of a variance would unreasonably provide the landowner with use rights and privileges permitted to other properties in the vicinity and in the zone. As such, Staff believes a Lot Frontage variance could be found to constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity. Finally, based on the above the Board could find granting a variance would be considered materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone. As such, Staff does not support the requested variance for Lot C.

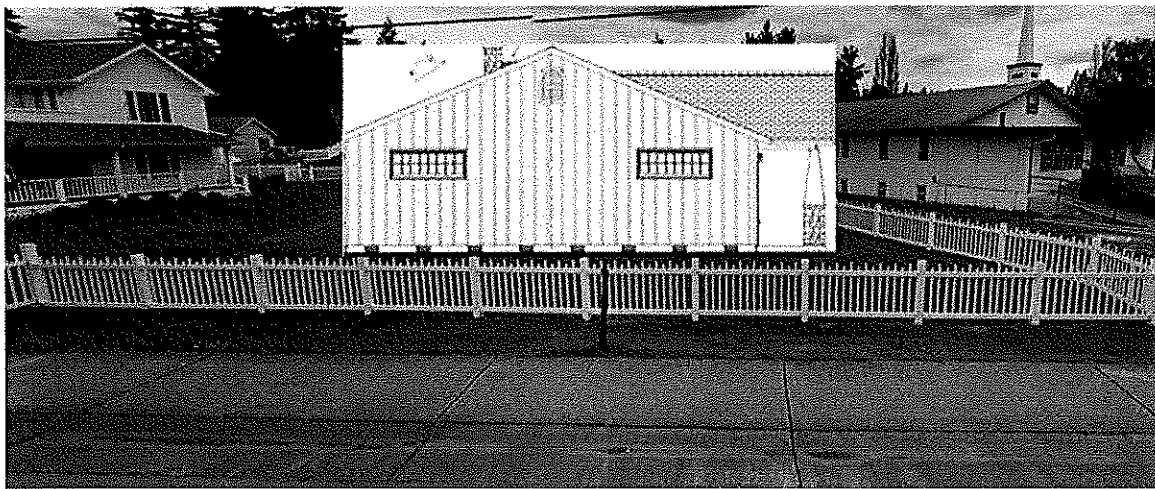
For Board review and consideration, please find below two (2) elevation sketches (*provided by the Applicant*) of the home proposed for development on Lot C. In addition, two color images are provided to illustrate example views of the proposed home: A) with an approved variance; and, B) in a code compliant orientation.



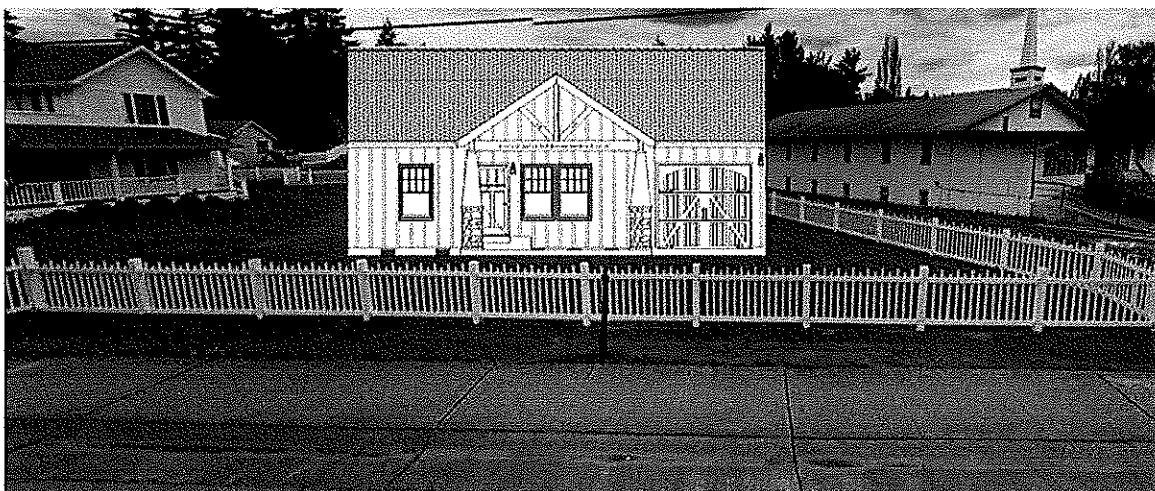
*Front view of the home proposed for Parcel C*



*End view of the home proposed on Parcel C*



*Parcel C: Proposed illustration of the home as proposed for variance along Eatonville Highway*



*Parcel C: Illustration of a code compliant orientation facing Eatonville Highway*

## **VIII. DRAFT FINDINGS OF FACT:**

1. The applicant has submitted an application for variance from the Code requirements regarding "Lot Frontage" for three (3) lots. Specifically, the applicant seeks relief from "Lot Frontage" requirements of EMC 18.02.235 as it relates to the orientation of home fronts on Lots A (6996000060), B (6996000070) and Lot C (0416143067).
2. All fees associated with the application for variances have been paid.
3. Notice has been provided to all property owners within at least 300 feet of the proposed variance at least 10 days prior to the public hearing.
4. The required public notice regarding the proposed variances has been be posted on site at least 10 days prior to the date of the public hearing.
5. Public notice has been published in a local newspaper at least 10 days prior to the public hearing.
6. Requests for variance may be allowed pursuant to the requirements of Eatonville Municipal Code, including but not limited to, EMC 18.09.040.
7. On September 8, 2015, the Eatonville Board of Adjustment held a public hearing and received public comment regarding the applicant's requests for variance to Lot Frontage on lots 6996000060 (A), 6996000070 (B) and 0416143067 (C).

Pursuant to Eatonville Municipal Code (EMC) 18.09.040(D), Conditions for Granting a variance, the Eatonville Board of Adjustment makes the following additional individual findings for each of the of the three (3) lots (Parcels A, B and C) as detailed below:

(please circle applicable selections: **bold and underlined** for approval – *italic* for denial)

### **PARCELS A & B:**

The variance **will** / *will not* constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located;

Such variance **is** / *is not* necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

The granting of such variance **will not** / *will* be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.



**PARCEL C:**

The variance will / *will not* constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located;

Such variance is / *is not* necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

The granting of such variance will not / *will* be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

**IX. DRAFT BOARD OF ADJUSTMENT DECISION:**

**PARCEL C:**

Having conducted the required public hearing and carefully considering the entire record, including but not limited to the Planning Department file, the recommendations and comments of Planning Staff, the presentation and comments of the Applicant and the public, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ apposed, the Board of Adjustment hereby adopts the Planning Staff Analysis, Recommendations and Findings of Fact contained herein and as noted above, and hereby APPROVES / *DENIES* the Park Place variance request for Parcel C.

**PARCELS A & B:**

Having conducted the required public hearing and carefully considering the entire record, including but not limited to the Planning Department file, the recommendations and comments of Planning Staff, the presentation and comments of the Applicant and the public, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ apposed, the Board of Adjustment hereby adopts the Planning Staff Analysis, Recommendations and Findings of Fact contained herein and as noted above, and hereby APPROVES / *DENIES* the Park Place variance request for Parcels A and B, subject to the following conditions of approval:

**X. DRAFT CONDITIONS OF APPROVAL:**

**PARCELS A & B:**

1. The variances authorized herein shall remain effective for one year for each lot, unless home construction has commenced. If home construction has not commenced within one year for each lot, the applicable variance shall become invalid. "Home construction" shall be considered the submission of a "complete building permit" application, as determined by the Town of Eatonville Building Official.

2. Prior to issuance of final occupancy permits for Lots A, B and C, the undeveloped alley shall be improved and approved by the Town Engineer.
3. The installation of fencing along the Iron Street SW right-of-way shall be limited to the design and development standards of a front yard fence.

---

Board of Adjustment Chairman

---

Date

## **XI. ATTACHMENTS:**

**Attachment A:** Park Place Homes LLC Variance Application Materials (*Master Application; Variance Application; Exhibit A (3 pages); parcel map; copy of Staff code review regarding frontage; proposed Site Plan for Parcel C; etc.*)

NOTICE: Pursuant to EMC 18.09.040, the decision of the Board of Adjustment shall be final and conclusive, unless within 10 days from the date of action the original applicant or an adverse party makes an appeal to the town council. This appeal should be in writing to the town council and filed with the town clerk.

Date Recv'd. 8-20-15  
 Deposit \$ 500<sup>00</sup>  
 Receipt # 55859

TOWN OF EATONVILLE  
 PLANNING DEPARTMENT  
 201 Center St W / PO Box 309  
 360-832-3361 / Fax 360-832-2573

**MASTER APPLICATION FOR LAND USE ACTIONS**  
 Check all applications for which you are applying.

|                                 |                                 |                                |
|---------------------------------|---------------------------------|--------------------------------|
| <u>8</u> Conditional Use Permit | _____ Non-Conforming Use Permit | _____ Boundary Line Adjustment |
| _____ SEPA Review               | _____ Preliminary Plat          | _____ Binding Site Plan        |
| <u>8</u> Variance               | _____ Short Plat / Long Plat    | _____ Other : _____            |
| _____ Rezone                    | _____ Final Plat                | _____                          |

\*\*\*\*\*APPLICATION DATA\*\*\*\*\*

Project Name: 600 Blk - Eatonville Hwy (3 lots)  
 Owner: Park Place Homes Address: P.O. Box 731335  
 Phone: Jeff 253-278-6322 Cell: Devin 253-255-9808 Business: \_\_\_\_\_  
 Contact Person: Jeff or Devin Cell: \_\_\_\_\_

\*\*\*\*\*PARCEL DATE\*\*\*\*\*

Site Address: 580; 590; 600 Eatonville Hwy Parcel # 041614 3067  
 Legal Description : QTR SEC. \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 Related Parcels: 6996000070; 6996000060  
 Utility Sources: Water: TOE; Sewer TOE; Power: TOE  
**\*\*Include Development Plans (Drawn to scale)**



6. Will the granting of a variance be significantly detrimental to the public welfare or injurious to the other property or improvements in your zone or neighborhood in which your property is located? Please explain:

NO. It would become attractive to the neighbors,  
Since the homes, Front Yards facing front  
yards rather than a hodge podge layout  
required by current code.

Applicants signature:

Devin Angles

Contact phone # (s)

253-841-3486

Cell:

253-255-9808

STATE OF WASHINGTON)

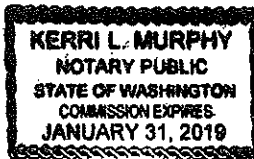
COUNTY OF

Pierce

SS

On this 2<sup>nd</sup> day of September, 2015, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioner and sworn, personally appeared Devin Angles, being duly sworn, on his oath deposes and says that he has prepared and read the foregoing statements and has acknowledged to me that the recitations contained therein are true, and has signed this instrument as his free and voluntary act and deed for the purposes therein mentioned.

Subscribed and sworn to before me this 2<sup>nd</sup> day of September, 2015.



Kerri Murphy  
Notary Public in and for the  
State of Washington,  
County of Pierce  
residing at Yakima

My Commission Expires: 01/31/19

David R. Benge  
Staff member assigned.

Board Action taken:

Date:

## EXHIBIT A

PARCEL A RESULTING FROM BOUNDARY LINE ADJUSTMENT RECORDED UNDER PIERCE COUNTY RECORDING NO. 9701130168, MORE SPECIFICALLY THEREIN DESCRIBED AS:

BEGINNING AT THE MOST EASTERLY NORTHEAST CORNER OF LOT 7, PREDMORE ADDITION TO EATONVILLE, ACCORDING TO PLAT RECORDED IN VOLUME 47 OF PLATS, PAGE 10, RECORDS OF PIERCE COUNTY, WASHINGTON;

THENCE SOUTH  $21^{\circ}56'38''$  WEST ALONG THE EAST LINE OF SAID LOT 7, 75.00 FEET;  
THENCE SOUTH  $67^{\circ}49'22''$  EAST TO THE NORTHERLY RIGHT-OF-WAY OF EATONVILLE HIGHWAY;

THENCE NORTH  $53^{\circ}53'38''$  EAST ALONG SAID RIGHT-OF-WAY 88.16 FEET;  
THENCE NORTH  $67^{\circ}49'22''$  WEST 157.41 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

**EXHIBIT A**

LOT 6 OF PREDMORE ADDITION, AS PER PLAT RECORDED IN VOLUME 47 OF PLATS, PAGE 10,  
RECORDS OF PIERCE COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

**EXHIBIT A**

LOT 7, PREDMORE ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 47  
OF PLATS, PAGE 10, RECORDS OF PIERCE COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.





## **2015 Comprehensive Plan Update Public Participation Plan**

### **Purpose**

The Washington State Growth Management Act (GMA) requires towns to conduct outreach to ensure *"early and continuous public participation"* in developing and amending comprehensive plans and development regulations (RCW 36.70A.140). The GMA also requires that local programs clearly identify schedules and procedures for public participation in the periodic update process (RCW 36.70A.130(2)(a)). The purpose of this Public Participation Plan (PPP) is to ensure compliance with the statute by identifying the scope of proposed activity and potential timeframe for participation and decision making.

### **Goals**

1. Ensure broad participation by identifying key interest groups and soliciting input from the public.
2. Maintain effective communication and coordination.
3. Focus resources on issues most likely to be of interest to the public.
4. Distribute information and public notices early and efficiently.

### **Background**

With the assistance of an Urban Design and Planning Team from the University of Washington, in January 2012 the Town of Eatonville began the periodic Comprehensive Plan 2015 update process required under RCW 36.70A.130. As a result of that effort and after having conducted an extensive public participation process, in June of 2012 the UW Team presented draft updates to the Planning Commission for the following Comprehensive Plan chapters: Chapter 7 – Vision, Goals and Policies; Chapter 10 - Land Use; Chapter 11 – Housing; Chapter 12 - Parks and Recreation; Chapter 13 - Economic Development; Chapter 15 – Transportation; and, a new Chapter on Public Participation (PP). Although the UW Team made substantial progress, the project stalled shortly after the completion of their initial effort. Building from what's been completed thus far, the Town is re-engaging the public participation process for the update as required under RCWs 36.70A.130 and .140.

### **Scope of Work**

The scope of work is division into three (3) phases:

Phase I: Review Comprehensive Plan and Development Code for compliance with state law; identify plan areas to be amended; scope the breadth of the update publicly. Review the updated chapters the UW Team presented to the Planning Commission in 2012.

Phase 2: Address the issues identified in Phase 1.

Phase 3: Conduct public hearings and take legislative action.

Phase details:

Phase 1

- Conduct a thorough review of GMA requirements and compilation of amendments since the last update(s). Review the Comprehensive Plan, the UW Team draft chapter updates presented to the Planning Commission and the public in 2012, and review Development Regulations to determine whether revisions will be required to ensure consistency with GMA amendments, using the GMA Periodic Update Checklist and other resources.
- Analyze the 2012 UW Team Urban Growth Area proposal to ensure it is sized to accommodate 20 years of population and employment growth, based on the adopted Office of Financial Management range.
- Identify corrective actions, if necessary, such as rezoning parcels, changing the allowed uses and densities or planning assumptions, or altering the size of the UGA.
- Inventory and assess Capital Facilities necessary to implement the 20-year plan.
- Review County's countywide planning policies and need for local policies to maintain cross jurisdictional consistency.
- Provide a status report to the public, the Planning Commission and Town Council.

Phase 2

- Propose updates and amendments to the Comprehensive Plan through public work sessions before the Planning Commission and/or Council.
- Develop revisions to the plan that incorporates community vision, planning assumptions, and plan policies.
- Conduct SEPA review.

Phase 3

- Planning Commission will conduct public hearings on the proposed Comprehensive Plan amendments and will forward a recommendation to the City Council.
- The Town will provide notification to the Department of Commerce with notice and text of the proposed amendments at least 60-days prior to final adoption.
- The Town Council will conduct separate public hearings on the proposed amendments and will take legislative action.
- Forward amendments to Pierce County and the Washington State Department of Commerce.

## **Public Participation Structure**

### Techniques and Strategies

The public participation methods employed have and/or may include:

- Use of innovative technologies whenever reasonably possible, such as posting meeting notices online, electronic surveys, online maps, links to informative programming and

planning activities.

- Provide public notices and information releases through print, posting, mail, and email. Publicize through community channels such as schools, social clubs, and local websites. Post all hearing notices and materials on the Town's website. Use Town utility billing inserts.
- Maintain an email distribution list and database of interested stakeholders to disseminate public information and notices of meetings.
- Identify and reach out to stakeholders, such as the school district, neighborhood associations, business groups, and civic organizations.

### **Targeted Schedule**

| <b><i>Town of Eatonville Public Participation - Targeted Schedule</i></b> |  |
|---|--|
| January 2012  | Phase 1: Project Kickoff with UW Urban Design and Planning Team                                  |
| March 2012  | Community Meeting  |
| 2012  | Online Survey  |
| June 2012   | Planning Commission Meeting - Updated Chapters 7, 10, 11, 12, 13, 15, & PP                       |
| September 2015  | Review and assessment of existing documents and relevant requirements                            |
| October 2015  | Phase 2: Planning Commission Open House – Public Work Sessions – Review and Work Program Scoping |
| March 2016  | Phase 3: Planning Commission Public Hearing  |
| April – May 2016  | Planning Commission Meetings ( <i>Deliberations</i> )  |
| August 2016   | Combined Town Council and Planning Commission Meeting  |
| October 2016  | Town Council Public Hearing  |
| November 2016   | Town Council Meetings ( <i>Deliberations</i> )   |
| January 2017  | Town Council Final Adoption  |

## Chapter 1.12

### GENERAL PENALTY\*

#### Sections:

1.12.010 Designated.

1.12.020 Civil infractions.

1.12.030 Civil infractions – Monetary penalties – Restitution.

\*For statutory provisions authorizing towns to impose fines up to \$5,000.00 or imprisonment up to one year, or both such fine and imprisonment, see RCW 35.27.370(14).

#### **1.12.010 Designated.**

A. Unless otherwise specifically provided, any person violating any provisions or failing to comply with any of the mandatory requirements of the ordinances of the town is guilty of a misdemeanor, punishable in accordance with EMC 9.02.005.

B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the ordinances of the town is committed, continued or permitted by any such person, and he shall be punished accordingly.

#### **1.12.020 Civil infractions.**

A. Any act or omission constituting a violation of any regulation, ordinance, or code provision designated in this code, or the noncodified ordinances of the town, as a civil infraction, shall be issued and processed in accordance with Chapter 7.80 RCW, as currently enacted or as hereinafter amended, which is incorporated herein by reference.

B. Enforcement officers, pursuant to RCW 7.80.040, as currently enacted or as hereinafter amended, shall include law enforcement officers, the town prosecutor, or the prosecutor for any municipality or political subdivision providing prosecution services pursuant to interlocal agreement, the municipal court, or the municipal court operated by the municipality or political subdivision providing municipal court services pursuant to interlocal agreement, and any other individual specifically authorized by the mayor.

C. The Town of Eatonville Municipal Court, or the municipal court operated by the municipality or political subdivision providing municipal court services pursuant to interlocal agreement, shall have jurisdiction over all civil infractions occurring within the Town of Eatonville.

D. Each day during which a violation under this chapter occurs or exists shall be deemed a separate civil infraction.

#### **1.12.030 Civil infractions – Monetary penalties – Restitution.**

A. All persons found to have committed a civil infraction shall be assessed a monetary penalty and restitution as follows, unless otherwise provided by law:

1. The maximum penalty and the default amount for a civil infraction designated as a class 1 civil infraction shall be \$250.00, not including statutory assessments;

2. The maximum penalty and the default amount for a civil infraction designated as a class 2 civil infraction shall be \$125.00, not including statutory assessments;

3. The maximum penalty and the default amount for a civil infraction designated as a class 3 civil infraction shall be \$50.00, not including statutory assessments; and

4. The maximum penalty and the default amount for a civil infraction designated as a class 4 civil infraction shall be \$25.00, not including statutory assessments.

B. All civil infractions which are not classified in this code as class 1, class 2, class 3 or class 4 civil infractions are hereby designated as class 1 civil infractions.

C. The court may also order a person found to have committed a civil infraction to make restitution.

D. Whenever a monetary penalty is assessed under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the town prosecutor of the failure to pay.

E. Payment of a monetary penalty, restitution, or performance of required community service shall not relieve a person of the duty to correct the violation.

## **Chapter 8.08 NUISANCES**

### Sections:

- 8.08.010 Nuisances generally defined.
- 8.08.020 Nuisances specifically defined.
- 8.08.030 Person defined.
- 8.08.040 Abatement.
- 8.08.050 Liability for costs of abatement.
- 8.08.060 Buildings to be secured.
- 8.08.070 Suspension by license or permit.
- 8.08.080 Violation – Penalty.
- 8.08.090 Right of Entry – Private Property.

### **8.08.010 Nuisances generally defined.**

A nuisance consists of doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- A. Injures or endangers the comfort, repose, health or safety of others;
- B. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, sidewalk, street or highway in the town;
- C. In any way renders other persons insecure in life or the use of property; or
- D. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

### **8.08.020 Nuisances specifically defined.**

The following specific acts, omissions, places, conditions and things are declared to be nuisances: the erecting, maintaining, using, placing, causing, depositing, allowing, leaving or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any street, avenue, alley, park, parkway, or other public or private place in the town, of any one or more of the following places, conditions, things, or acts to the prejudice, danger or annoyance of others:

- A. Privies, vaults, cesspools, sumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;
- B. Filthy, littered, or trash-covered premises and areas adjacent thereto;
- C. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal articles, bric-a-brac, broken stone or cement; broken crockery, broken glass, broken plaster, and all other trash or abandoned material, unless the same is kept in covered bins or metal receptacles approved by the building inspector;

D. Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin, and other metal not neatly piled, or anything whatsoever in which flies may breed or multiply or which provides harborage for rats or which may be a fire danger;

E. All places not properly fenced which are used or maintained as junkyards or dumping grounds, or for the wrecking, dissembling, repair, or rebuilding of automobiles, trucks, tractors, or machinery of any kind or of any of the trucks, tractors, or for the storing or leaving of any machinery parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others;

F. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animals, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human excreta or other offensive substance; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner approved by the building inspector of the town;

G. The erection, continuance or use of any building, room or other place in the town for the exercise of any trade, employment or manufacture which, by occasioning noxious exhalations, offensive odors or other annoyances, is discomforting or offensive or detrimental to the health of individuals or of the public;

H. The playing or causing to be played in front of any building where any show, moving picture exhibition or theatrical performance is given, or in the open vestibule or area of any building, of any automatic or mechanical musical instrument for the attraction of customers;

I. Burning or disposal of refuse, sawdust or other material in such a manner to cause or permit ashes, sawdust, soot or cinders to be cast upon the streets or alleys of the town, or to cause or permit the smoke, ashes, soot or gases arising from such burning to become annoying to any considerable number of persons or to injure or endanger the health, comfort, or repose of said persons; provided, this section shall not apply where the party responsible for the action has properly obtained a fire permit from the fire department;

J. Any unguarded or abandoned excavation, pit, well, or hole dangerous to life;

K. To allow outside of any dwelling, building or other structures or within any unoccupied or abandoned building, dwelling or other structure, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other automatic locking device which may

not be released from the inside, without first removing said door or lid, snap lock or other locking device from said refrigerator, icebox or container;

#### **8.08.030 Person defined.**

For the purposes of this chapter, the word "person," wherever used in this chapter, is held and construed to mean and include natural persons of either sex, firms, partnerships and corporations, and all associations of natural persons, whether acting by themselves or by a servant or employee.

#### **8.08.040 Abatement.**

A. When judgment is rendered against any person finding them guilty of creating, keeping or maintaining a nuisance, as provided in this chapter, it shall be the duty of the court before whom the conviction is had, in addition to imposing the penalty or penalties provided in this chapter, to order the defendant or defendants in such action to forthwith abate and remove such nuisance, and if the same is not done by the offender within a reasonable time as determined by the court, the same shall be abated and removed under the direction of the chief of police of the town, or any other officer authorized by the order of the court, and made a part of the judgment in the action.

B. Summary Abatement. Whenever any condition or use of the premises causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, and the responsible person(s) cannot be contacted or refuse(s) to immediately abate the condition, the enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement may become a civil debt against the owner or the responsible person and shall be collectible in the same manner as any other civil debt owing to the town or as otherwise provided in this chapter.

#### **8.08.050 Liability for costs of abatement.**

Any person found guilty of keeping or maintaining a nuisance as provided in this chapter is liable for all costs and expenses of abating the same when said nuisance has been abated by any officer of the town, which costs and expenses shall be taxed as part of the prosecution against the party liable, to be recovered as other costs are recovered; provided, that in such cases the town shall be liable in the first instance to pay the same, and in all cases where the chief of police or other officer abates any such nuisance, he shall keep an account of all expenses attending such abatement and in addition to the powers herein given to collect such costs and expenses, the town may bring suit for the same in any court of competent jurisdiction against the person creating, keeping or maintaining the nuisance so abated.

#### **8.08.060 Buildings to be secured.**



Every agent or owner of any unoccupied building in the town shall keep the same securely closed at all times against persons who may enter and commit a nuisance therein.

**8.08.070 Suspension by license or permit.**

These provisions, or any of these provisions, may be suspended by the issuance of a proper license or permit by the town.

**8.08.080 Violation – Penalty.**

Any violation of the provisions of this chapter shall be considered a civil infraction and shall subject the person committing the violation to the procedures, terms and conditions set forth in Chapter 1.12 EMC, as well as the abatement remedies set forth herein .

**8.08.090 Right of Entry – Private Property.**

When the enforcement officer has probable cause to believe that a nuisance exists on private property in violation of this chapter, he or she may request permission to enter the premises to inspect for evidence thereof if the property owner is present. If permissive entry cannot be obtained, the enforcement officer or prosecuting attorney may apply to a court of competent jurisdiction for a warrant to enter the property, notwithstanding the inability to locate the property owner.

## **Chapter 8.09 JUNK VEHICLES\***

### **Sections:**

8.09.010 Purpose.

8.09.020 Definitions.

8.09.030 Exemptions.

8.09.040 Violations - Penalties.

8.09.050 Abatement procedure.

8.09.060 Liability for costs of abatement.

8.09.070 Right of Entry – Private Property.

\*Prior legislation: Ord. 90-19, formerly codified in Ch. 10.20 EMC.

### **8.09.010 Purpose.**

The purpose of the ordinance codified in this chapter is to provide for the abatement and removal of junk vehicles on private property as provided for in RCW 46.55.240, and for the assessment of monetary penalties pursuant to Chapter 1.12 EMC. Abatement is necessary to preserve and enhance the aesthetic character of the town's neighborhoods, protect property values and rights and to reduce environmental health and safety problems associated with junk vehicles. Monetary penalties are necessary to promote compliance with the provisions set forth herein.

### **8.09.020 Definitions.**

For the purposes of this chapter, the following definitions apply:

A. "Junk vehicle" is any vehicle, or parts of a vehicle, which meets at least three of the following criteria:

1. Is extensively damaged, such damage including, but not limited to, the following examples:

- a. Broken window or windshield;
- b. Flat tires;
- c. Missing tires, motor or transmission;
- d. Rusted exterior;
- e. Leaking oil or gasoline;

2. Is apparently inoperable, meaning that a vehicle does not appear to comply with requirements for vehicles used on public streets or highways with regard to licensing, brakes, lights, tires, safety glass or other safety equipment;

3. Is three years old or older;

4. Has an approximate fair market value equal only to the approximate value of the scrap in it;

5. Is illegally parked in the front or side yard.

B. "Enforcement officer" means the mayor, his or her designee, or a town of Eatonville law enforcement officer.

C. "Vehicle" shall include, but not be limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on the public right-

of-way, and shall also include parts of vehicles, but shall not include devices moved by human or animal power, or used exclusively upon stationary rails or tracks.

D. "Person" shall include natural persons of either sex, firms, partnerships, corporations and all associations of natural persons, whether acting by themselves or by a servant or employee.

#### **8.09.030 Exemptions.**

The provisions of this chapter shall not apply to:

A. A vehicle or part thereof that is completely enclosed within a building in a lawful manner, or otherwise parked legally on the property so as not to be visible from adjacent or nearby public property. Temporary tarp garages and carports do not satisfy this exemption;

B. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dismantler or licensed vehicle dealer and is fenced in accordance with the provisions of RCW 46.80.130;

C. A vehicle enclosed in an opaque auto cover specifically designed to completely shield the vehicle from view as long as the vehicle is parked in a lawful manner on private property. The cover must be in good condition and must be replaced if it is torn, weather-beaten, or acquires any other defects. Tarps and makeshift covers do not meet the requirement. This exemption will apply to only two vehicles per legal lot. Vehicles stored on vacant or undeveloped land are not exempted by this subsection;

D. An individual's personal vehicle restoration of up to two vehicles per legal lot. Vehicles stored on vacant or undeveloped land are not exempted by this subsection.

#### **8.09.040 Nuisance declared; Violations - Penalties.**

A. One or more junk vehicles which have been accumulated, dismantled, parked, placed, or stored on private property is declared a public nuisance, which is subject to the enforcement, penalty, removal, and abatement procedures in this chapter and as provided in state law.

B. It is a violation of this chapter for any person to accumulate, dismantle, park, place or store a junk vehicle on private property, in conflict with or in violation of any of the provisions of this chapter. Both the registered owner of the vehicle and the record owner of the private property upon which the vehicle is found shall be considered in violation of this chapter and subject to the enforcement and penalty provisions, except as otherwise set forth herein.

C. In addition to the above, it is a violation of this chapter to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;

2. Fail to comply with any of the requirements of this chapter, including any requirement of the town's codes and state codes adopted by reference herein.

D. Penalties. Any violation of the provisions of this chapter shall be considered a civil infraction and shall subject the person committing the violation to the procedures, terms, and conditions set forth in Chapter 1.12 EMC, as well as the abatement remedies set forth herein.

#### **8.09.050 Abatement procedure.**

A. When judgment is rendered against any person finding them guilty of creating, keeping or maintaining a nuisance, as provided in this chapter, it shall be the duty of the court before whom the conviction is had, in addition to imposing the monetary penalty or penalties provided in Chapter 1.12 EMC, to order the defendant or defendants in such action to forthwith abate and remove the nuisance, and if the same is not done by the offender within such period of time as the court finds reasonable, the same shall be abated and removed under the direction of a police officer of the town, or any other officer authorized by the order of the court, and the costs thereof made a part of the judgment in the action.

B. Summary Abatement. Whenever any junk vehicle, as defined herein, causes, constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, and the responsible person(s) cannot be contacted or refuse(s) to immediately abate the condition, the enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement may become a civil debt against the owner or the responsible person(s) and shall be collectible in the same manner as any other civil debt owing to the town or as otherwise provided in this chapter.

C. Disposal. If after 45 days from the date of the lawful abatement and removal of a junk vehicle pursuant to this section the registered owner of said junk vehicle has failed to retrieve the vehicle, the town may seek to dispose of the vehicle. Notice of the town's intent to dispose of the vehicle shall be served upon the registered owner of the vehicle and a hearing shall be held in the same manner as set forth in Chapter 1.12 EMC. At the hearing the municipal court shall approve the disposal of the vehicle unless it shall find that good cause exists to refuse the town's request.

1. In the event the court grants the town's request to dispose of the vehicle, the enforcement officer shall facilitate the disposal with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked. The vehicle shall only be disposed of as scrap.

#### **8.09.060 Liability for costs of abatement.**

A. Costs of abatement, removal and disposal of junk vehicles pursuant to EMC Section 8.09.050 shall be a joint and several debt assessable against the registered owner of such vehicle and the record owner of the property from which such junk vehicle is removed for disposal, except as otherwise provided in this section.

B. Costs of abatement, removal and disposal of junk vehicles shall not be assessed against the registered owner of such vehicle if the registered owner has transferred ownership prior to the service of a notice of violation, and the registered owner has complied with RCW 46.12.101.

C. The record owner of the property from which the junk vehicle is removed may appear in person at the hearing on the violation or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with the reasons for the denial. If it is determined at the hearing, by a preponderance of the evidence, that the vehicle was placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence, then the court shall not assess costs for the removal and disposal of such vehicle against the record owner of the property.

D. Costs of abatement, removal and disposal of junk vehicles pursuant to EMC Section 8.09.050 shall include any and all costs incurred in the removal, storage and disposal of said junk vehicle(s).

**8.09.070 Right of Entry – Private Property.**

When the enforcement officer has probable cause to believe that a nuisance created by a junk vehicle exists on private property in violation of this chapter, he or she may request permission to enter the premises to inspect for evidence thereof if the property owner is present. If permissive entry cannot be obtained, the enforcement officer or prosecuting attorney may apply to a court of competent jurisdiction for a warrant to enter the property, notwithstanding the inability to locate the property owner.

## **Chapter 8.11**

### **PUBLIC NOISE NUISANCES\***

#### **Sections:**

- 8.11.010 Purpose and findings of special conditions.
- 8.11.020 Definitions.
- 8.11.030 Sounds created by operation of motor vehicles.
- 8.11.040 Mufflers.
- 8.11.050 Modification of motor vehicles.
- 8.11.060 Tire noise.
- 8.11.070 Exhaust system.
- 8.11.080 Sale of new motor vehicles which exceed limits.
- 8.11.090 Public disturbance noises.
- 8.11.100 Public nuisance noises.
- 8.11.110 Exemptions.
- 8.11.120 Enforcement.
- 8.11.130 Violation – Penalty.
- 8.11.140 Severability.

\*Code reviser's note: Ord. 2005-17 adds this chapter as Chapter 8.10 EMC. It has been editorially renumbered to avoid duplication of numbering.

#### **8.11.010 Purpose and findings of special conditions.**

A. The purpose of this chapter is to regulate excessive intermittent noises that interfere with the use, value and enjoyment of property and which pose a hazard to the public health, safety and welfare.

B. This chapter is not intended to regulate the content of any form of speech or expression.

C. Findings of Special Conditions. The problem of noise in Eatonville has been observed by the town council and town staff and is documented by the complaints received and logged in the police department. On the basis of these observations and complaints, the town council finds that special conditions exist within the town of Eatonville which makes necessary any and all differences between this chapter and the regulations adopted by the Washington State Department of Ecology.

#### **8.11.020 Definitions.**

A. "dB(A)" means the sound level measured in decibels using the "A" weighing network.

B. "Motorcycle" means any motor vehicle having a saddle for the use of a rider and designed to travel on not more than three wheels in contact with the ground, except that farm tractors and vehicles powered by engines of less than five horsepower shall not be included.

C. "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways and required to be licensed under RCW 46.16.010.

D. "Motor vehicle racing event" means any competition between motor vehicles and/or offhighway vehicles under the auspices of a sanctioning body licensed by Pierce County.

E. "Muffler" means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing sound resulting therefrom.

F. "Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily for transporting persons or property upon public highways not required to be licensed under RCW 46.16.010. "Off-highway vehicle" shall include dirt bikes and all-terrain vehicles, but shall not include special construction vehicles.

G. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

H. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented or leased by one or more persons from that owned, rented or leased by one or more other persons, and its vertical extension.

I. "Real property" means an interest or aggregate of rights in land which is guaranteed and protected by law. "Real property" includes a leasehold interest.

J. "Receiving property" means any real property within which sound originating from sources outside the property is received.

K. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1, S1A, 2 or S2A, as specified in the American National Standards Institute Specifications.

L. "Special construction vehicle" means any vehicle which is designed and used primarily for grading, paving, earth moving, and other construction work, and which is not designed or used primarily for the transportation of persons or property on a public highway, and which is only incidentally operated or moved over the highway.

M. "Warning device" means any device intended to provide warning of potentially hazardous, emergency or illegal activities including but not limited to an alarm system or vehicle back-up signal.

#### **8.11.030 Sounds created by operation of motor vehicles.**

It is unlawful for any person to operate upon any public road any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such manner as to exceed the following maximum permissible sound levels for the category of vehicle, as measured at a distance of 50 feet from the center of the lane of travel within the speed limits specified by measurement procedures established by the State Commission on Equipment.

**Table A**

| <b>Vehicle Category</b>                          | <b>35 mph or Less</b> | <b>Over 35 mph</b> |
|--|-----------------------|--------------------|
| Motor vehicles over 10,000 pounds GVWR or (GCWR) | 86 dB(A)              | 90 dB(A)           |
| Motorcycles                                      | 80 dB(A)              | 84 dB(A)           |
| All other motor vehicles                         | 76 dB(A)              | 80 dB(A)           |

**8.11.040 Mufflers.**

It is unlawful for any person to operate, or for any owner to permit any person to operate, any motor vehicle or motorcycle upon the public highways which is not equipped with a muffler in good working order and in constant operation.

**8.11.050 Modification of motor vehicles.**

It is unlawful for any person to modify or change any part of a motor vehicle or motorcycle, or install any device thereon in any manner that permits sound to be emitted by the motor vehicle or motorcycle in excess of the limits prescribed by this chapter. It is unlawful for any person to remove or render inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound-dissipating device on a motor vehicle or motorcycle.

**8.11.060 Tire noise.**

It is unlawful for any person to operate a motor vehicle or motorcycle in such manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason; provided, that sound resulting from emergency braking to avoid imminent danger shall be exempt from this chapter.

**8.11.070 Exhaust system.**

It shall be unlawful for any person to operate any motor vehicle upon any public highway if the vehicle exhaust system exceeds the maximum permissible sound levels set forth below for the category of vehicle, as measured at a distance of 20 inches (0.5 meter) from the exhaust outlet under procedures established by the state of Washington in WAC 173-58-080, "Close Proximity Exhaust System Sound Level Measurement Procedure."

**Table B**

| <b>In Use Motor Vehicle Exhaust System Noise Performance Standards<br/>Measured at 20 Inches<br/>(0.5 Meter)</b> |                            |
|--|----------------------------|
| <b>Vehicle Category</b>  | <b>Maximum Sound Level</b> |
| Motorcycles  | 99 dB(A)                   |
| Automobiles, light trucks, and all other motor vehicles<br>10,000 pounds or less                                 | 95 dB(A)                   |

**8.11.080 Sale of new motor vehicles which exceed limits.**

It is unlawful for any person to sell or offer for sale a new motor vehicle which produces a maximum sound level exceeding the following maximum permissible sound levels at a distance of 50 feet, by acceleration test procedures established by the State



Commission on Equipment and set forth in Chapter 204-56 WAC, "Procedures for Measuring Motor Vehicle Sound Levels."

**Table C**

| <b>Vehicle Category</b>   | <b>Maximum Sound Level</b> |
|---|----------------------------|
| Motorcycles manufactured after 1975   | 83 dB(A)                   |
| Any motor vehicle over 10,000 pounds GVWR manufactured after 1975 and prior to 1978 | 83 dB(A)                   |
| Any motor vehicle over 10,000 pounds GVWR manufactured after 1978                   | 83 dB(A)                   |
| All other motor vehicles  | 80 dB(A)                   |

**8.11.090 Public disturbance noises.**

It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, a public disturbance noise.

The following sounds are public disturbance noises:

A. Frequent, repetitive, or continuous sounds made by any animal which unreasonably disturb or interfere with the peace, comfort, and repose of property owners or possessors, except that such animal sounds which are made in animal shelters, commercial kennels, veterinary hospitals, pet shops, or pet kennels, licensed under EMC Title 5 are exempt from this subsection. Notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer or if the animal is a repeated violator of this subsection, the animal shall be impounded subject to redemption in the manner provided by Chapter 6.40 EMC;

B. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

C. Frequent, repetitive, or continuous sounds from starting, operating, repairing, rebuilding, or testing of any motor vehicle, motorcycle, dirt bike, or other off-highway vehicle, or any internal combustion engine, within a residential district, including vacant property adjacent thereto, so as to unreasonably disturb or interfere with the peace, comfort, and repose of owners or possessors of real property;

D. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure, or property or the contents therein except as permitted by law, and except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;

E. Any loud and raucous sound made within 1,000 feet of any school, hospital, sanitarium, nursing or convalescent facility;

F. Any loud and raucous sound made by the use of a musical instrument, whistle, sound amplifier, or other device capable of producing or reproducing sound which emanates frequently, repetitively, or continuously from any building, structure or property, such as sound originating from a band session, tavern operation, or social

gathering and which unreasonably disturbs or interferes with the peace, comfort, and repose of owners or possessors of real property in the area affected by such noise;

G. Yelling, shouting, hooting, whistling, or singing so as to unreasonably disturb or interfere with the peace, comfort, and repose of owners or possessors of property in the area affected by such noise;

H. Public disturbance noise from portable or motor vehicle audio equipment: while in park areas, residential or commercial zones, or any area where residences, schools, human service facilities, or commercial establishments are in obvious proximity to the source of the sound, it is unlawful for any person to negligently cause, make, or allow to be made from audio equipment under such person's control or ownership the following:

1. Sound from a motor vehicle sound system, such as a tape player, radio, or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of 50 feet or more from the vehicle itself;

2. Sound from audio equipment such as a tape player, radio, or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of 50 feet or more from the source of the sound;

3. This section shall not apply to persons operating portable audio equipment within a public park pursuant to an event sanctioned by a responsible authority under a valid permit or license.

#### **8.11.100 Public nuisance noises.**

It is unlawful for any person to cause or allow to be emitted a public nuisance noise. A "public nuisance noise" is any noise which unreasonably annoys, injures, interferes with, or endangers the comfort, repose, health or safety of three or more persons residing within separate residences in the same community or neighborhood, although the extent of the nuisance impact may be unequal.

#### **8.11.110 Exemptions.**

A. Between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 9:00 a.m. and 6:00 p.m. on Saturdays and Sundays, the following shall be exempt from this chapter; however, other state restrictions may apply:

1. Sounds originating from residential property as a result of temporary projects for the construction, maintenance, or repair of homes, grounds, and appurtenances;

2. Sounds created by the discharge of firearms on authorized shooting or firing ranges;

3. Sounds created by blasting;

4. Sounds created by aircraft engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance shall be conducted at remote sites whenever possible;

5. Sounds created by the installation or repair of essential utility services;

6. Sounds originating from temporary, nonresidential construction sites as a result of construction activity are exempt from this chapter.

B. The following shall be exempt from this chapter:

1. Sounds from electrical substations and existing stationary equipment used in the conveyance of water or wastewater by a utility;

2. Sounds from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have

consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours which would affect exemptions under this regulation require approval of the director of public works;

3. Sounds commonly associated with an existing commercial operation which has been approved through a public hearing process and is operating in compliance with any permit conditions;

4. Sounds commonly associated with an existing commercial operation which was established prior to the effective date of any land use regulation(s) and is thereby nonconforming;

5. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations;

6. Sounds created by surface carriers engaged in interstate commerce by railroad;

7. Sounds created by warning devices not operated continuously for more than five minutes (bells, chimes, and carillons);

8. Sounds created by safety and protective devices where noise suppression could defeat the intent of the device or is not economically feasible;

9. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for the health, safety, or welfare of the community;

10. Sounds originating from motor vehicle or motorcycle racing events at existing authorized facilities, or being sanctioned by a responsible authority under a valid permit or license;

11. Sounds originating from officially sanctioned parades and other public events under a valid permit or license;

12. Sounds emitted from petroleum refinery boilers during startup of said boilers; provided, that the startup operation is performed during daytime hours whenever possible;

13. Sounds created by the discharge of firearms in the course of hunting;

14. Sounds created by the discharge of fireworks in accordance with Chapters 8.17 and 8.18 EMC.

#### **8.11.120 Enforcement.**

A. The Eatonville police department shall enforce the provisions of this chapter.

B. Enforcement on Complaint Only.

1. For public disturbance noise that is not related to motor vehicles and noise emanating from vehicles, enforcement shall be undertaken only upon receipt of a complaint made by a person who resides, owns or rents property, or is employed in the area affected by the public disturbance noise.

2. For public nuisance noise, enforcement shall be undertaken only upon receipt of a complaint or complaints of three or more persons residing within separate residences in the same community or neighborhood.

C. The sections of this chapter relating to motor vehicles and noise emanating from vehicles shall be subject to enforcement proceedings with or without a citizen's complaint.

D. With the exception of motor vehicle noise, noise created by industrial areas is to be regulated by the state of Washington.

E. In addition to other enforcement provided in subsection B of this section, animal control officers appointed pursuant to RCW 16.52.025 shall enforce the provisions of this chapter related to animal noises.

**8.11.130 Violation – Penalty.**

A. Any person violating any motor vehicle performance standard of this chapter, or who shall create, keep, maintain, or allow to occur any noise related to motor vehicle performance standards, as defined herein, shall be guilty of a misdemeanor.

B. Any person violating any of the provisions of this chapter other than motor vehicle performance standards, or who shall create, keep, maintain, or allow to occur any public disturbance noise or public nuisance noise as defined herein shall be subject to a civil infraction pursuant to the procedures, terms, and conditions set forth in Chapter 1.12 EMC.

C. Each act herein prohibited of continuing nature shall be considered a separate offense.

**8.11.140 Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.